

1. *Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*; Order issued August 14, 2009.

The Board has determined that the petition and prefiled testimony have effectively addressed the issues raised with respect to the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The Project is part of AT&T's Universal Mobile Telecommunications Service ("UMTS") upgrade that involves the installation and modification of wireless telecommunications services in Vermont. The ultimate objective of the project is to upgrade AT&T's Vermont network to provide 3G wireless technologies for simultaneous circuit-switched voice and packet-switched data communications. Joint Panel pf. at 3-5, 11.

2. The Project will allow interconnection with the other similar AT&T facilities comprising AT&T's Vermont network, some of which have already been upgraded and others that are slated for improvements. AT&T needs to add antennas to maximize performance of the facilities at some sites. Joint Panel pf. at 10-11.

3. The Project facilities are proposed to be located at the following sites: (1) Killington, Site No. VT6484, 463 East Mountain Road, Killington, Vermont, Tax Map/Parcel ID No. 36-9-2; (2) South Hero, Site No. VT6464, 10 Roy's Ridge Road, South Hero, Vermont, Tax Map/Parcel ID No. RR010; (3) Wilmington, Site No. VT6499, 13 East Main Street, Wilmington, Vermont, Tax Map/Parcel ID No. 02122018.000; and (4) Wilmington, Site No. VT6425, 787 Route 9 East, Wilmington, Vermont, Tax Map No. 10, Block 03, Lot 8.TWR. Joint Panel pf. at 3-4.

4. The Project involves the addition and/or reconfiguration of antennas on existing towers at each of the four Project sites. The Project will also involve the addition of operating equipment within existing shelters and equipment rooms. The Project will not increase the height or width of any of the existing structures by more than twenty feet and will involve only temporary earth disturbance associated with Project installation at the existing sites. Joint Panel pf. at 5-8 and 9-10.

5. The existing structures are capable of accommodating the new facilities provided the recommendations specified in structural reports developed for each site are followed. Joint Panel pf. at 12.

6. The Project will not have an undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 7 and 8, below.

7. The proposed co-location of facilities will not have an undue adverse effect on aesthetics when viewed in the overall context of the existing telecommunications towers and equipment located at each site. Joint Panel pf. at 9-10, 14-15.

8. There are no rare or irreplaceable natural areas or historic sites within the vicinity of the existing sites where the Project will be located. Joint Panel pf. at 15-17.

IV. DISCUSSION & CONCLUSION

Pursuant to 30 V.S.A. § 248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

Pursuant to § 248a(j)(1), the Procedures Order defines a project of "limited size and scope" as a facility that:

(a) consists of an attachment to an existing structure that does not increase the height or width of the existing structure by more than twenty feet; or (b) does not exceed 135 feet in height and does not include road building or other earth disturbance exceeding 100 square feet, other than a temporary road or earth disturbance associated with construction or installation activities.

Further, pursuant to Section (L) of the Procedures Order, regarding projects of "limited size and scope:"

Unless the Board determines that an application raises a substantial issue, it shall issue a final determination on an application within 45 days of its filing

Each of the communications facilities included as part of the proposed Project will consist of an attachment to an existing structure that does not increase the height or width of that structure by more than twenty feet and will involve only temporary earth disturbance associated with Project installation at the existing sites. Therefore, all of the facilities qualify as facilities of "limited size and scope" as defined in the Board's Procedures Order governing the installation of wireless telecommunications facilities. The Procedures Order provides that the Board, in its review of facilities of "limited size and scope," conditionally waives all criteria under 30 V.S.A. § 248a(c)(1), with the exception of 10 V.S.A. § 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas).

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.²

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the locations specified in the above findings, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

2. We have specifically rejected a proposed finding submitted by AT&T related to the general good that relied on the testimony of AT&T witness Robert Donovan previously submitted in a different Docket, because the Board's findings must be based on the evidence in the current proceeding. 3 V.S.A. § 809(g). In any future filings related to the UMTS upgrade, AT&T should include all testimony upon which it relies, rather than referring to testimony provided in an earlier proceeding.

Dated at Montpelier, Vermont, this 3rd day August, 2010.

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| <u>s/ James Volz</u> |) | |
| |) | PUBLIC SERVICE |
| |) | |
| <u>s/ David C. Coen</u> |) | BOARD |
| |) | |
| |) | OF VERMONT |
| <u>s/ John D. Burke</u> |) | |

OFFICE OF THE CLERK

FILED: August 3, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.